



**THE ATTORNEY GENERAL  
OF TEXAS**

GROVER SELLERS  
~~XXXXXXXXXXXXXX~~  
WILL WILSON  
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Homer L. Moss  
County Attorney  
Wheeler County  
Wheeler, Texas

Dear Sir:

Opinion No. 0-6054

Re: Under the facts submitted and under Articles 3111 and 3112, Vernon's Annotated Civil Statutes, does the Chairman of the Wheeler County Democratic Executive Committee have the right to certify the name of the applicant as a candidate for the office of State Representative in and for said county?

This will acknowledge receipt of your letter, dated May 20th, which reads, in part, as follows:

" . . .

"Mr. Crump as Chairman of the County Executive Democratic committee has received an application from one Mr. R. L. Templeton for a place on the ballot to be used by and for Wheeler County in the coming first Democratic primary. Mr. Templeton is a candidate for the office of Representative.

"Mr. Crump advises that there is no district executive committee and the filings in such races are made with the four county chairmen respectively. In the case at hand no form of acknowledgment or verification appears on the application. Naturally, Mr. Crump is anxious to have you pass upon this matter at your earliest convenience, if at all practical. There being no exact precedent by court decision to the knowledge of either the chairman or I, it appears very important that the former have the benefit of an opinion from you or your staff in order that a generally satisfactory action on his part may be performed.

" . . . "

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We further set forth the application in question as disclosed by your enclosed brief:

"R. L. Templeton  
Wellington, Texas

"To the Chairman of the Democratic Executive  
Committee in and for Wheeler County, Texas:

"Dear Sir:

"I hereby make application to have my name placed on the ballot to be used at the Democratic Primary for the selection of Democratic nominees for State and County offices at the election to be held throughout the State on July 22nd, 1944 as a candidate for the office of State Representative for the 122nd Representative District of Texas, composed of Collingsworth, Wheeler, Gray and Donley Counties.

"In connection therewith I hereby enclose the sum of \$1.00, filing fee.

"I am twenty-four years of age and was born in Wellington, Collingsworth County, Texas, where I have resided and had my citizenship all of my life. I am a Democrat and pledge myself to support the nominees of the Democratic Primary.

"Respectfully submitted,

R. L. Templeton (in writing)  
(signature)

R. L. Templeton (typed)

Post office address:  
Wellington, Texas."

Articles 3111 and 3112, Vernon's Annotated Civil Statutes, respectively provide:

"The request to have the name of any person affiliating with any party placed on the official ballot for a general primary as a candidate for the nomination of such party for any State office shall be governed by the following:

"1. Such request shall be in writing signed and duly acknowledged by the person desiring such nomination, or by twenty-five qualified voters. It shall state the occupation, county of residence

and post-office address of such person, and if made by him shall also state his age.

"2. Any such request shall be filed with the State chairman not later than the first Monday in June preceding such primary, and shall be considered filed if sent to such chairman at his post-office address by registered mail from any point in this State.

" . . . " (Emphasis ours)

"Any person desiring his name to appear on the official ballot as a candidate for the nomination for Chief Justice or Associate Justice of the Court of Civil Appeals, or for Representative in Congress, or for State Senator when such Senatorial District is composed of one or more than one County, or for Representative, or district judge or district attorney in representative or judicial districts composed of one or more than one county, shall file with the chairman of the executive committee of the party for the district, said request with reference to a candidate for a State nomination, or if there be no chairman of such district executive committee, then with the chairman of each county composing such district, not later than the third Monday in May preceding the general primary. Such requests may likewise be filed not later than said date by any twenty-five (25) qualified voters resident within such district, signed and duly acknowledged. Immediately after said date each such district chairman shall certify the names of all persons for whom such requests have been filed to the county chairman of each county composing such district. If said name is not submitted or filed within said time, same shall not be placed upon said ballot." (Emphasis ours)

These enactments were designed to promote fair dealing, good faith and prevent injustice, by denying fraudulent or frivolous filings of candidates which might be made solely for the purpose of deceiving the electorate and without any intention or hope on the part of the candidate of being successful. The Legislature has seen fit to lay down these requisites as safeguards.

Therefore, before any candidate may submit himself to the qualified voters of this State, he must comply with the prerequisites set forth in the Article 3111, supra. Such requirements are mandatory. See cases cited, 20 C.J. #113, p. 115; 29 C.J.S. #114, p. 153, indicating that it is so held universally.

And in McClain v. Betts, et al., (Civ.App. 1936) 95 S. W. (2d) 1311, the court said:

"We have carefully examined relator's application to have his name placed on said ballot, as above stated, and find that it contains every matter required by law. The only criticism, as to its legal sufficiency, that could be urged is that relator did not acknowledge his request or application for his name to be placed on the ballot as required by subdivision 1 of article 3111, R.S. 1925. But he did verify same by swearing that all of the facts stated in his application were true. The purpose of requiring that such application be acknowledged is to insure the applicant's good faith, and purpose in making the request, and as relator duly verified by oath the contents of his application, it was a substantial and sufficient compliance with the statute." (Emphasis ours)

In construing a statutory word or phrase the court may take into consideration the meaning of the same or similar language used elsewhere in the Act or in another of similar nature. See cases cited, 39 Tex. Juris. #108, p. 201.

Article 3113, Vernon's Annotated Civil Statutes, reads, in part, as follows:

"Any person desiring his name to appear on the official ballot for the general primary, as a candidate for the nomination for any office to be filled by the qualified voters of a county or a portion thereof, or for county chairman, shall file with the county chairman of the county of his residence, not later than Saturday before the third Monday in June preceding such primary, a written request for his name to be printed on such official ballot as a candidate for the nomination or position named therein, giving his occupation and post-office address, giving street and number of his residence, if within a city or town, such request to be signed and acknowledged by him before some officer authorized to take acknowledgments to deeds. . . ." (Emphasis ours)

And in PUNCHARD, et al., v. Masterson, et al, 100 Tex. 479, 101 S. W. 204, the Supreme Court said:

" . . . Therefore, when an acknowledgment is prescribed, without declaring of what the acknowledgment shall consist, it is meant that the grantor in a deed must appear before a duly authorized officer and state that he executed the

same. . . . 'This word "acknowledge," besides the legal sense in which it has for centuries been used, has also a common meaning, understood by every one, which uniformly relates to something past. It is a confession or admission of some prior act.' Roanes v. Archer, 4 Leigh (Va.) 557.  
" . . . "

The persons authorized to take acknowledgments are enumerated in Article 6602, Vernon's Annotated Civil Statutes.

In view of the foregoing, it follows that the applicant has not complied with the provisions of Articles 3111 and 3112, supra, in that he has not made the required acknowledgment or verification nor has he made a "substantial compliance" therewith. Furthermore, the applicant has not set forth his occupation on the application as required by said articles.

In our opinion, therefore, the chairman of the Wheeler County Democratic Executive Committee does not have the right to certify the name of the applicant for a place as a candidate for the office of State Representative, 122nd District of Texas, on the ballot to be used in the Democratic Primary to be held on July 22, 1944, in and for such county.

Trusting this satisfactorily answers your inquiry,  
we are

Very truly yours,

ATTORNEY GENERAL OF TEXAS

By /s/ Fred C. Chandler  
Fred C. Chandler  
Assistant

By /s/ Elton M. Hyder, Jr.  
Elton M. Hyder, Jr.

KMH:db

APPROVED JUN 7, 1944

Grover Sellers

ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE  
BY /s/ BWB  
CHAIRMAN